

Rept # 500693

20
ORIGINALUNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

04-60004

RICARDO MOORE,

Plaintiff,

v

CITY OF DETROIT, A Michigan municipal corporation, CITY OF DETROIT POLICE DEPARTMENT, and former CHIEF JERRY OLIVER, jointly and severally,

Defendants.

CASE NO:

HON.:

Magistrate:

JUDGE MARIANNE O. BATTANI
Magistrate MajzoubWayne County Circuit Court
Case No. 03-337538 NZ
HON. ROBERT L. ZIOLKOWSKIISAIAH LIPSEY (P57361)
Attorney for Plaintiff
17000 W. Ten Mile Road
Second Floor
Southfield, Michigan 48075
(248) 552-8787KATHRYN NIEMER (P39239)
DARA M. CHENEVERT (P51283)
City of Detroit Law Department
Attorneys for Defendants
660 Woodward Avenue, Suite 1650
Detroit, Michigan 48226
(313) 237-3041NOTICE OF REMOVAL OF CIVIL ACTION

NOW COME Defendants, by and through their attorneys, Kathryn Niemer and Dara M. Chenevert, and pursuant to 28 USC §1331 and 1446(2) hereby give notice of removal of this action from the State of Michigan Circuit Court for the County of Wayne to Federal District Court and expressly reserving all questions other than that of removal, state the following in support of this removal:

1. There was commenced and is now pending in the State of Michigan Circuit Court

for the County of Wayne, a civil action designated as Case No. 03-337538 NZ, in which Ricardo Moore is named as the Plaintiff and the City of Detroit, the City of Detroit Police Department and former Chief of Police Jerry Oliver are named as Defendants. Copies of all process, pleadings, and orders in this matter are attached hereto.

2. Plaintiff filed his Complaint on November 12, 2003 and filed his Amended Complaint and Reliance on Jury Demand on November 20, 2003. A copy of all pleadings was served on Defendants by certified mail on December 22, 2003.¹

3. This Notice of Removal has been timely filed pursuant to 28 U.S.C. § 1446(b). Count I, Paragraphs 15 - 20 of Plaintiff's Amended Complaint explicitly reference a violation of Plaintiff's First Amendment rights pursuant to 42 U.S.C. §1983. Count II, Paragraphs 21 - 25 of Plaintiff's Amended Complaint impliedly references a violation of Plaintiff's Fourteenth Amendment due process rights, also pursuant to 42 U.S.C. §1983. Specifically, Plaintiff alleges that Defendants demoted, harassed and retaliated against Plaintiff for exercising his First Amendment right to free speech, under color of law.

4. Thus, Counts I and II of Plaintiff's Complaint purport to assert claims arising under federal law, which gives this Court original jurisdiction of this action pursuant to 28 U.S.C. § 1331 and 28 U.S.C. § 1441(b).

5. Pursuant to 28 U.S.C. §1441(a), a defendant may remove any claim over which the federal court has original jurisdiction and this Court exercises original jurisdiction over all claims arising under 42 U.S.C. §1983.

6. Pursuant to 28 U.S.C. §1367(a), this Court has supplemental jurisdiction to hear state claims that are pendent to the federal cause of action.

¹ The original Complaint filed on November 12, 2003 was served on December 22, 2003 together with the Amended Complaint filed on November 20, 2003.

7. The exercise of supplemental jurisdiction in this matter is warranted because (1) the federal claims have substance sufficient to confer subject matter jurisdiction on the court; (2) the state and federal claims derive from a common nucleus of operative fact; and (3) the Plaintiff's claims are such that he would ordinarily be expected to try them all in one judicial proceeding.

8. Plaintiff's state law claims do not represent claims separate and independent of the federal claim of a violation of 42 U.S.C. §1983.

9. Plaintiff's state law claims do not "substantially predominate" over his federal causes of action, but rather derive and flow directly from them.

10. This action can be removed in its entirety. Specifically, Defendants request that, in addition to exercising federal question jurisdiction over the federal claims, this Court also exercise supplemental jurisdiction over the remaining claims, pursuant to 28 U.S.C. § 1441(c), since those claims are so related to the federal claims that they form part of the same case or controversy. All of Plaintiff's claims not only arise out of a common nucleus of operative fact, they arise out of the exact same factual circumstances, such that Plaintiff would ordinarily be expected to try them all in one proceeding. *United Mine Workers v. Gibbs*, 383 U.S. 715, 717; 86 S.Ct. 1130, 16 L.Ed.2d 218 (1966).

11. Written notice of the filing of this Notice of Removal is being serviced on Plaintiff's counsel this date.

12. A copy of this Notice of Removal is being filed with the State of Michigan Circuit Court of the County of Wayne this date.

WHEREFORE the above named Defendants remove this action to this court.

Respectfully submitted,

CITY OF DETROIT LAW DEPARTMENT

By: 

Kathryn Niemer (P39239)

Dara M. Chenevert (P51283)

Attorneys for Defendant

660 Woodward Avenue, Suite 1650

Detroit, Michigan 48226

(313) 237-3041

Dated: January 8, 2004



SUMMONS AND RETURN OF SERVICE

COURT
ADDRESS: 2 WOODWARD AVENUE, DETROIT, MICHIGAN 48226

COURT
TELEPHONE NO. (313) 224- 2365

THIS CASE ASSIGNED TO JUDGE: ROBERT L. ZIOLKOWSKI

Bar Number: 22745

PLAINTIFF

MOORE RICARDO

PL 01 VS DETROIT POLICE DEPARTMENT

DF 003

DEFENDANT

PLAINTIFF'S ATTORNEY

ISAIAH LIPSEY
(P-57361)
12000 W 10 MILE RD FL 2
SOUTHFIELD, MI 48075-2945
248-552-8282

CASE FILING FEE		JURY FEE
PAID		PAID
ISSUED	THIS SUMMONS EXPIRES	DEPUTY COUNTY CLERK
11/12/03	02/11/04	LISA J. HOWARD

*This summons is invalid unless served on or before its expiration date.

Cathy M. Garrett - Wayne County Clerk

NOTICE TO THE DEFENDANT: In the name of the people of the State of Michigan you are notified:

1. You are being sued.
2. YOU HAVE 21 DAYS after receiving this summons to file an answer with the court and serve a copy on the other party or to take other lawful action (28 days if you were served by mail or you were served outside this state).
3. If you do not answer or take other action within the time allowed, judgment may be entered against you for the relief demanded in the complaint.

There is no other pending or resolved civil action arising out of the same transaction or occurrence as alleged in the complaint.

A civil action between these parties or other parties arising out of the transaction or occurrence alleged in the complaint has been previously filed in _____ Court.

There is no other pending or resolved action within the jurisdiction of the family division of circuit court involving the family or family members of the parties.

An action within the jurisdiction of the family division of the circuit court involving the family or family members of the parties has been previously filed in _____ Court.

The docket number and assigned judge of the civil/domestic relations action are:

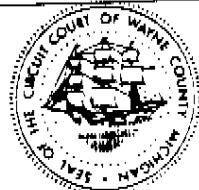
Docket no.	Judge	Bar no.

The action remains is no longer pending.

I declare that the complaint information above and attached is true to the best of my information, knowledge, and belief.

12/16/2003

Isaiah L. Lipsey
Signature of attorney/plaintiff



COMPLAINT IS STATED ON ATTACHED PAGES. EXHIBITS ARE ATTACHED IF REQUIRED BY COURT RULE.

If you require special accommodations to use the court because of disabilities, please contact the court immediately to make arrangements.

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

RICARDO MOORE,

Plaintiff,

v.

CITY OF DETROIT, a municipality,
CITY OF DETROIT POLICE DEPARTMENT,
and former CHIEF JERRY OLIVER,
Jointly and severally,

BY _____
03-337538-NZ 11/12/2003
JDG: ROBERT L ZIOLKOWSKI
MOORE RICARDO
vs. [REDACTED]
DETROIT CITY OF [REDACTED]

Defendant.

LAW OFFICES OF ISAIAH LIPSEY

Isaiah Lipsey (P57361)
Attorney for Plaintiff
17000 W. Ten Mile Road, 2nd Floor
Southfield, MI 48075
(248) 552-8787

AMENDED COMPLAINT AND
RELIANCE ON JURY DEMAND

Plaintiff, Ricardo Moore, by and through his attorney, Isaiah Lipsey, and for his Complaint in the above-named matter, states as follows:

1. Plaintiff, Ricardo Moore (hereinafter "Plaintiff:"), at all times relevant to this Complaint, was a resident of the City of Detroit, County of Wayne, State of Michigan.

2. Defendant, City of Detroit, is a municipality located in the County of Wayne, State of Michigan.
3. Defendant, City of Detroit Police Department is a law enforcement entity established and operating under the laws of the State of Michigan and is authorized to do business in the State of Michigan.
4. On information and belief, Defendant, former Police Chief Jerry Oliver, was at all times relevant to this Complaint, a resident of the County of Wayne, State of Michigan, operating under color of law as the Chief of Police for the City of Detroit.
5. Defendant Jerry Oliver's illegal actions against Ricardo Moore occurred within the course of Moore's employment with the City and was in the scope of Mr. Oliver's authority.
6. At all relevant times, Ricardo Moore was a policeman and/or spokesman for the police department since 1995.
7. That all events, transactions and occurrences relevant hereto transpired within the County of Wayne.
8. That the amount in controversy exceeds the sum of Twenty-Five Thousand (\$25,000) Dollars.
9. That the defendants did during the course of Plaintiff's employment take unjustified, unprivileged, uncontested and unlawful actions

with the Plaintiff while acting under the color of law, and within the scope of their authority on or about November 26, 2002.

10. Ricardo Moore was retaliated against, in violation of his First Amendment rights when he publicly stated that the "Chief must work with the unions regarding the promotions of police officers."
11. That after this statement, Plaintiff was demoted from his position as Press Spokesman for the Police Department, transferred to the midnight shift patrol, forced to undergo psychiatric counseling and otherwise harassed by the former Chief of Police Jerry Oliver.
12. As a result of defendants' actions, Ricardo Moore experienced and continues to experience pain and suffering, including but not limited to mental anguish, fright, shock, undue stress, depression, anxiety, memory loss, humiliation and embarrassment.
13. That Plaintiff's First Amendment freedom of speech, freedom of expression, right to association, and freedom of liberty has been and is currently being unlawfully restrained by Defendants and defendants' agents.
14. That Defendants' acts and/or omissions taken individually and/or in their totality were at all times intentional, willful, wanton, reckless, malicious, and/or grossly unconstitutional.

COUNT I

FIRST AMENDMENT VIOLATIONS
AND FIRST AMENDMENT RETALIATION
ALL DEFENDANTS

15. Plaintiff realleges and reincorporates by reference each allegation as set forth in paragraphs 1 through 14 as though more fully stated herein.
16. That the intentional and unlawful actions of Defendants placed Plaintiff in immediate and well founded fear of job loss, demotion, mental stress and anguish, and imminent bodily injury, coupled with Defendants' present ability to carry out the intentional and willful acts which Plaintiff could not prevent and that emotional and physical bodily injury did result from the intentional and lawful actions of Defendants.
17. That the actions of the Defendants were unjustified, malicious, and in bad faith.
18. That Plaintiff was denied his freedom of speech by the Chief of Police and City of Detroit Police Department when he stated "The Chief must work with the unions" on or about November 26, 2002.
19. That Plaintiff was retaliated against by exercising his First Amendment rights.

20. That as a direct and proximate result of the above-mentioned actions of Defendants, Plaintiff suffered injuries and damages, including but not limited to, serious and lasting mental injuries to his body, mental anguish, pain and suffering, loss of wages, loss of enjoyment of life, humiliation, degradation, loss of memory, aggravation of pre-existing conditions known and unknown and incurred medical expenses, all in the present and future.

WHEREFORE, Plaintiff, Ricardo Moore, respectfully requests that this court enter judgment against the Defendants in excess of Twenty Five Thousand (\$25,000) Dollars, together with interests, costs and attorney fees.

COUNT II

SECTION 1983 - COLOR OF LAW

21. Plaintiff realleges and reincorporates by reference allegations set forth in paragraphs 1 through 19 as though more fully stated herein.
22. That Defendants' actions against the Plaintiff were taken under the color of law.
23. That Plaintiff was demoted, harassed and retaliated against by the Defendants under the color of law by stating that the "Chief must work with the unions" on or about November 26, 2002.
24. Plaintiff, Ricardo Moore, was at all times, acting in a lawful manner and in the best interest of the City of Detroit Police Department.

25. That as a direct and proximate result of the aforementioned wrongful conduct of Defendants, Plaintiff suffered injuries and damages, including but not limited to, serious and lasting mental and physical injuries to his body, mental anguish, pain and suffering, loss of wages, loss of enjoyment of life, humiliation, degradation, loss of memory, aggravation of pre-existing conditions, known and unknown, and has incurred medical expenses, all present and future.

WHEREFORE, Plaintiff, Ricardo Moore, respectfully requests that this court enter judgment against the Defendants in excess of Twenty Five Thousand (\$25,000) Dollars, together with interests, costs and attorney fees.

RELIANCE ON JURY DEMAND

Plaintiff relies on the demand for a trial by jury previously submitted.

Respectfully submitted,

By: Isaiah Lipsey
Isaiah Lipsey (P57361)
Attorney for Plaintiff
17000 W. Ten Mile Rd, 2nd Fl
Southfield, MI 48075
(248) 552-8787

Dated: November 19, 2003

JURY FEE PAID
FILED DATE:
NOV 12 2003

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

RICARDO MOORE,

Plaintiff,

Case No. 03- - NZ

v.

Hon.

CITY OF DETROIT, a municipality,
CITY OF DETROIT POLICE DEPARTMENT,
and former CHIEF JERRY OLIVER,
Jointly and severally.

Defendant.

LAW OFFICES OF ISAIAH LIPSEY

Isaiah Lipsey (P57361)
Attorney for Plaintiff
17000 W. Ten Mile Road, 2nd Floor
Southfield, MI 48075
(248) 552-8787

There is no other pending civil or resolved action arising out of the same transaction or occurrence as alleged in this complaint pending in this Court, nor has any such action been previously filed and dismissed or transferred after having been assigned to a Judge. MCR 2.113(c)(2)(a).

Isaiah Lipsey
Isaiah Lipsey

COMPLAINT AND JURY DEMAND

Plaintiff, Ricardo Moore, by and through his attorney, Isaiah Lipsey, and for his Complaint in the above-named matter, states as follows:

1. Plaintiff, Ricardo Moore (hereinafter "Plaintiff:"), at all times relevant to this Complaint, was a resident of the City of Detroit, County of Wayne, State of Michigan.
2. Defendant, City of Detroit, is a municipality located in the County of Wayne, State of Michigan.
3. Defendant, City of Detroit Police Department is a law enforcement entity established and operating under the laws of the State of Michigan and is authorized to do business in the State of Michigan.
4. On information and belief, Defendant, former Police Chief Jerry Oliver, was at all times relevant to this Complaint, a resident of the County of Wayne, State of Michigan, operating under color of law as the Chief of Police for the City of Detroit.
5. Defendant Jerry Oliver's illegal actions against Ricardo Moore occurred within the course of his employment with the City and was in the scope of Mr. Oliver's authority.
6. That all events, transactions and occurrences relevant hereto transpired within the County of Wayne.
7. That the amount in controversy exceeds the sum of Twenty-Five Thousand (\$25,000) Dollars.

8. That the defendants did during the course of Plaintiff's employment take unjustified, unprivileged, uncontested and unlawful actions with the Plaintiff while acting under the color of law, and within the scope of their authority.
9. Ricardo Moore was retaliated against, in violation of his First Amendment rights when he publicly stated that the "Chief must work with the unions regarding the promotions of police officers."
10. That after this statement, Plaintiff was demoted from his position as Press Spokesman for the Police Department, transferred to the midnight shift patrol, forced to undergo psychiatric counseling and otherwise harassed by the former Chief of Police Jerry Oliver.
11. As a result of defendants' actions, Ricardo Moore experienced and continues to experience pain and suffering, including but not limited to mental anguish, fright, shock, undue stress, depression, anxiety, memory loss, humiliation and embarrassment.
12. That Plaintiff's First Amendment freedom of speech, freedom of expression, right to association, and freedom of liberty has been and is currently being unlawfully restrained by Defendants and defendants' agents.

13. That Defendants' acts and/or omissions taken individually and/or in their totality were at all times intentional, willful, wanton, reckless, malicious, and/or grossly unconstitutional.

COUNT I

**FIRST AMENDMENT VIOLATIONS
AND FIRST AMENDMENT RETALIATION
ALL DEFENDANTS**

14. Plaintiff realleges and reincorporates by reference each allegation as set forth in paragraphs 1 through 13 as though more fully stated herein.
15. That the intentional and unlawful actions of Defendants placed Plaintiff in immediate and well founded fear of job loss, demotion, mental stress and anguish, and imminent bodily injury, coupled with Defendants' present ability to carry out the intentional and willful acts which Plaintiff could not prevent and that emotional and physical bodily injury did result from the intentional and lawful actions of Defendants.
16. That the actions of the Defendants were unjustified, malicious, and in bad faith.
17. That Plaintiff was denied his freedom of speech by the Chief of Police and City of Detroit Police Department when he stated "The Chief must work with the unions."

18. That Plaintiff was retaliated against by exercising his First Amendment rights.
19. That as a direct and proximate result of the above-mentioned actions of Defendants, Plaintiff suffered injuries and damages, including but not limited to, serious and lasting mental injuries to his body, mental anguish, pain and suffering, loss of wages, loss of enjoyment of life, humiliation, degradation, loss of memory, aggravation of pre-existing conditions known and unknown and incurred medical expenses, all in the present and future.

WHEREFORE, Plaintiff, Ricardo Moore, respectfully requests that this court enter judgment against the Defendants in excess of Twenty Five Thousand (\$25,000) Dollars, together with interests, costs and attorney fees.

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SECTION 1983 - COLOR OF LAW

20. Plaintiff realleges and reincorporates by reference allegations set forth in paragraphs 1 through 19 as though more fully stated herein.
21. That Defendants' actions against the Plaintiff were taken under the color of law.
22. That Plaintiff was demoted, harassed and retaliated against by the Defendants under the color of law by stating that the "Chief must work with the unions."

23. Plaintiff, Ricardo Moore, was at all times, acting in a lawful manner and in the best interest of the City of Detroit Police Department.
24. That as a direct and proximate result of the aforementioned wrongful conduct of Defendants, Plaintiff suffered injuries and damages, including but not limited to, serious and lasting mental and physical injuries to his body, mental anguish, pain and suffering, loss of wages, loss of enjoyment of life, humiliation, degradation, loss of memory, aggravation of pre-existing conditions, known and unknown, and has incurred medical expenses, all present and future.

WHEREFORE, Plaintiff, Ricardo Moore, respectfully requests that this court enter judgment against the Defendants in excess of Twenty Five Thousand (\$25,000) Dollars, together with interests, costs and attorney fees.

JURY DEMAND

Plaintiff hereby demands a Trial by Jury.

Respectfully submitted,

By:


Isaiah Lipsey (P57361)
Attorney for Plaintiff
17000 W. Ten Mile Rd, 2nd Fl
Southfield, MI 48075
(248) 552-8787

Dated: November 11, 2003

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISIONRICARDO MOORE,
Plaintiff,CASE NO:
HON.:
Magistrate:

-vs-

CITY OF DETROIT, A Michigan municipal
corporation, CITY OF DETROIT POLICE
DEPARTMENT, and former CHIEF
JERRY OLIVER, jointly and severally,
Defendants.Wayne County Circuit Court
Case No. 03-337538 NZ
HON. ROBERT L. ZIOLKOWSKIISAIAH LIPSEY (P57361)
Attorney for Plaintiff
17000 W. Ten Mile Road
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Southfield, Michigan 48075
(248) 552-8787KATHRYN NIEMER (P39239)
DARA M. CHENEVERT (P51283)
City of Detroit Law Department
Attorneys for Defendants
660 Woodward Avenue, Suite 1650
Detroit, Michigan 48226
(313) 237-3041STATE OF MICHIGAN)
)
)ss.
COUNTY OF WAYNE)JAN - 8 P 3 25
COURT CLERK
MSGPROOF OF SERVICE

Myria Winkler being first duly sworn, deposes and says that she is employed by the City of Detroit; that on January 8, 2004, she served the following: NOTICE OF REMOVAL OF ACTION TO U.S. DISTRICT COURT, NOTICE OF REMOVAL OF CIVIL ACTION, NOTICE OF APPEARANCE AND APPEARANCE OF COUNSEL, ANSWER TO AMENDED COMPLAINT, DEFENDANTS' SPECIAL AND AFFIRMATIVE DEFENSES TO PLAINTIFF'S AMENDED COMPLAINT, RELIANCE ON DEMAND FOR JURY TRIAL, AND A PROOF OF SERVICE on: ISAIAH LIPSEY (P57361), Attorney for Plaintiff, 17000 W. Ten Mile Road, Second Floor, Southfield, Michigan 48075, by placing the same in an envelope addressed as above and properly stamped with first-class postage fully prepaid and depositing said envelope in a mail receptacle maintained by the United States government in the First National Building, Detroit, Michigan.

Myria Winkler
Myria Winkler

Subscribed and sworn to before me
this 8th day of January 2004.

January 8, 2004
Notary Public
Wayne County, MI
My Commission expires: 1-13-2006

CIVIL COVER SHEET

COUNTY IN WHICH THIS ACTION AROSE Wayne

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet.

I. (a) PLAINTIFFS

RICARDO MOORE

60004

Battani/Majz

(b) County of Residence of First Listed: Wayne

26163

DEFENDANTS

04-60004

CITY OF DETROIT

CITY OF DETROIT POLICE DEPARTMENT

FORMER CHIEF JERRY OLIVER

County of Residence of First Listed Wayne

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

(C) Attorneys (Name, Address and Telephone Number)

ISAIAH LIPSEY

P57361

17000 W. Ten Mile Road, Second Floor

Southfield

MI 48075

(248) 552-8787

Attorneys (If Known)

Dara M. Chenevert (P57361)

City of Detroit Law Department

660 Woodward Avenue, Suite 1650

Detroit, MI 48226

(313) 237-5083

JUDGE MARIANNE O. BATTANI

Magistrate Majzoub

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

 1 U.S. Government Plaintiff 3 Federal Question
(U.S. Government Not a Party) 2 U.S. Government Defendant 4 Diversity
(Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

PLA DEF PLA DEF
Citizen of This State 1 1 Incorporated or Principal of Business In This State 4 5Citizen of Another 2 3 Incorporated and Principal of Business In Another State 5 6Citizen or Subject of Foreign Country 3 4 Foreign Nation 6 7

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT

TORTS

FORFEITURE/PENALTY

BANKRUPTCY

OTHER STATUTES

110 Insurance
 120 Marine
 130 Miller Act
 140 Negotiable Instrument
 150 Recovery of Overpayment and Enforcement of Judgment
 151 Medicare Act
 152 Recovery of Defaulted Student Loans (Excl. Veterans)
 153 Recovery of Overpayment of Veteran's Benefits
 160 Stockholders' Suits
 190 Other Contract
 195 Contract Product Liability

PERSONAL INJURY
 310 Airplane
 315 Airplane Product Liability
 320 Assault, Libel And Slender
 330 Federal Employers' Liability
 340 Marine
 345 Marine Product Liability
 350 Motor Vehicle
 355 Motor Vehicle Product Liability
 360 Other Personal Injury

PERSONAL PROPERTY
 370 Other Fraud
 371 Truth in Lending
 380 Other Personal Property Damage
 385 Property Damage Product Liability

610 Agriculture

620 Other Food & Drug
 625 Drug Related Seizure of Property 21: 881

630 Liquor Laws

640 R.R. & Truck

650 Airline Regs.

660 Occupational Safety/Health

690 Other

LABOR

SOCIAL SECURITY

710 Fair Labor Standards Act

720 Labor/Mgmt. Relations

730 Labor/Mgmt. Reporting & Disclosure Act

740 Railway Labor Act

790 Other Labor Litigation

791 Empl. Ret. Inc. Security Act

420 Appeal 28 USC 158

423 Withdrawal 28 USC 157

PROPERTY RIGHTS

820 Copyrights

830 Patent

840 Trademark

SOCIAL SECURITY

861 HIA (1395ff)

862 Black Lung (923)

863 DIWC/DIWV (405(g))

864 SSID Title XVI

865 RSI (405(g))

FEDERAL TAX SUITS

870 Taxes (U.S. Plaintiff or Defendant)

871 IRS-Third Party 26 USC 7609

400 State Reapportionment

410 Antitrust

430 Banks and Banking

450 Commerce/ICC

460 Deportation

470 Racketeer Influenced & Corrupt Organizations

810 Selective Service

850 Securities/Commodities/ Exchange

875 Customer Challenge 12 USC 3410

891 Agricultural Acts

892 Economic Stabilization Act

863 Environmental Matters

894 Energy Allocation Act

895 Freedom of Information Act *

900 Appeal of Fee Determination Under Equal Access to Justice

950 Constitutionality of State Statutes

890 Other Statutory Actions

(PLACE AN "X" IN ONE BOX ONLY)

V. ORIGIN

 1 Original Proceeding 2

Removed from State Court

 3

Remanded from Appellate Court

 4

Reinstated or Reopened

Transferred from

5 another district (specify)

6 Multidistrict Litigation

Appeal to District Judge from Magistrate Judgment

(Cite the U.S. Civil Statute under which you are filing and write brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

VI. CAUSE OF ACTION

42 USC Sec. 1983

VII. REQUESTED IN COMPLAINT:

 CHECK IF THIS IS A CLASS ACTION
UNDER F.R.C.P. 23

\$ DEMAND

25,000.00

CHECK YES only if demanded in complaint:

JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions)

JUDGE

DOCKET NUMBER

DATE

1/8/2004

SIGNATURE OF ATTORNEY OF RECORD

X *Dara M. Chenevert*

PURSUANT TO LOCAL RULE 83.11

1. Is this a case that has been previously dismissed?

Yes

No

If yes, give the following information:

Court: _____

Case No.: _____

Judge: _____

2. Other than stated above, are there any pending or previously discontinued or dismissed companion cases in this or any other court, including state court? (Companion cases are matters in which it appears substantially similar evidence will be offered or the same or related parties are present and the cases arise out of the same transaction or occurrence.)

Yes

No

If yes, give the following information:

Court: _____

Case No.: _____

Judge: _____

Notes:
